

Amendment under 37 CFR §1.111
Application No. 10/594,278
Attorney Docket No. 063029

REMARKS

(1) Claims 1-13 were pending in this application, of which claim 1 has been amended. No new claims have been added.

(2) Claims 1-13 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states that the term “vertical and in standing” is confusing, and that the term “vertical” seems to be all that is required to convey that the longer tubes are upright. In response, the term “in standing” has been deleted.

Since the amendment does not change the scope of the invention recited in claim 1, it does not raise new issues of patentability.

(3) Claims 1-7, 12 and 13 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/594,277, in view of Swift patent.

Applicants herewith file a terminal disclaimer with respect to Application No. 10/594,277.

Amendment under 37 CFR §1.111

Application No. 10/594,278

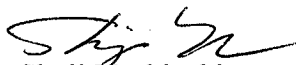
Attorney Docket No. 063029

(4) The Examiner indicates that with the submittal of a suitable terminal disclaimer and correction of the clarity problem of claim 1, the application should be in a condition of allowance. Page 4 of the Office Action.

(5) In view of above, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date. If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned representative at the telephone number indicated below to arrange for an interview to expedite the disposition of this case. If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Shuji Yoshizaki

Patent Agent

Registration No. 62,785

Telephone: (202) 822-1100

Facsimile: (202) 822-1111

SY/mt

Attachment: Terminal Disclaimer